

ORDINANCE NO. 94-16

AN ORDINANCE  
TO AMEND THE ZONING ORDINANCE  
IN THE TOWN OF MUKWONAGO  
AS IT RELATES TO DOGS

WHEREAS, the Town Clerk has brought to the attention of the Town Board of the Town of Mukwonago that there is a conflict between the Ordinance Prohibiting Dogs from Running at Large in the Town of Mukwonago and the Zoning Code for the Town of Mukwonago as to the number of dogs which are allowed to be kept on premises within the Town without obtaining a kennel license; and

WHEREAS, an Ordinance Prohibiting Dogs from Running at Large in the Town of Mukwonago, Waukesha County, Wisconsin, at Section 3 states:

No more than three (3) dogs required to be licensed hereunder shall be kept on any premises within the Town without obtaining a kennel license; and

WHEREAS, the Zoning Code for the Town of Mukwonago states that:

Where two or less dogs are kept, such use shall be considered accessory to the principal use and shall not require special approval by the Town Plan Commission; and

WHEREAS, the Town Board of the Town of Mukwonago wishes to clarify the Town's position in this regard; and

WHEREAS, the Town Board of the Town of Mukwonago has amended the Ordinance Prohibiting Dogs from Running at Large in the Town of Mukwonago, Waukesha County, Wisconsin, to state that the number of dogs allowed to be kept on any premise within the Town shall be as set forth in the Zoning Ordinance for the Town of Mukwonago; and

WHEREAS, at the Plan Commission meeting for the Town of Mukwonago held on September 7, 1994, the Town Attorney was directed to prepare a draft zoning ordinance dealing with the number of dogs which would be allowed on a premise in the Town of Mukwonago; and

WHEREAS, joint public hearings were conducted by the Town Board of the Town of Mukwonago and the Plan Commission for the Town of Mukwonago on Wednesday, December 7<sup>th</sup> 1994; and

WHEREAS, said rezoning ordinance has been submitted to the Plan Commission for the Town of Mukwonago for report and recommendation; and

WHEREAS, the Plan Commission for the Town of Mukwonago has recommended to the Town Board of the Town of Mukwonago that said zoning change be made; and

**WHEREAS, the Town Board of the Town of Mukwonago, having carefully reviewed the recommendation of the Plan Commission for the Town of Mukwonago, having carefully reviewed the draft ordinance, having determined that all procedural requirements and notice requirements have been satisfied, and having given the matter due consideration, and having based its determination on the effect of the granting of such rezoning on the health, safety and welfare of the community, the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved as well as the impact on the surrounding properties as to noise, dust, smoke and odor, and others, hereby determine that the proposed rezoning ordinance will not violate the spirit or intent of the Zoning Code for the Town of Mukwonago, will not be contrary to the public health, safety or general welfare of the Town of Mukwonago, will not be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, odor or other similar factors and will not for any other reason cause a substantial adverse effect on the property values and general desirability of the neighborhood as long as the operation is conducted pursuant to the following conditions and in strict compliance with the same and is consistent with the recommendations found in the Town of Mukwonago master plan.**

**NOW, THEREFORE, the Town Board of the Town of Mukwonago, Waukesha County, Wisconsin, DOES ORDAIN AS FOLLOWS:**

**Section 1:      Section 9 entitled R-H Rural Home District, subsection 9.01 entitled Use Regulations, subsection 9.01(1) entitled Permitted Uses, subsection 9 • 01(1) (J) is hereby repealed and recreated to read as follows:**

**9.01(1)**

**(J)    Hobby Kennel.**

**1.    Number of Dogs Limited.**

- a.    On parcels one acre or less in size, no more than 2 dogs, required to be licensed by State statute, shall be kept within the Town. Hobby kennel use permits cannot be issued for parcels one acre or less in size.**
- b.    On parcels more than one acre in size but less than three acres in size, no more than 2 dogs, required to be licensed by State statute, shall be kept within the Town. Hobby kennel use permits may be issued for lots more than one acre in size.**
- c.    On parcels three acres or more in size, no more than 3 dogs, required to be licensed by State statute, shall be kept within the Town. Hobby kennel use permits may be issued for lots three acres or more in size.**

**2.    Hobby Kennel Use Permits.**

- a.    Such hobby kennel must be accessory to an otherwise permitted use.**
- b.    Such hobby kennel must have the specific approval of the Town Plan Commission.**
- c.    Prior to approval of a hobby kennel, the Town Plan Commission must hold a public hearing.**
- d.    The application fee for a bobby kennel shall be as set by separate resolution of the Town Board of the Town of Mukwonago.**
- e.    Written notice of the public hearing shall be sent by regular mail to the last known address of all land owners within 300 feet of the subject property.**

- f. The Town Plan Commission must make a finding that such hobby kennel will not adversely affect the use of adjacent lands, and is compatible with surrounding and nearby land uses.
- g. The Town Plan Commission may require such measures or provisions by the applicant as may be deemed necessary to provide adequate protection of surrounding property.
- h. The Town Plan Commission may deny the request for a hobby kennel on the basis of a finding that such use would be incompatible, a possible nuisance, and/or not in the public interest.
- i. Any person aggrieved by a decision of the Town Plan Commission relative to hobby kennels may appeal such decision to the Board of Adjustment.

**3. Nuisances.**

In all cases, regardless of the number of dogs on a parcel, if the keeping of any number of dogs accessory to the principal use becomes a nuisance to the neighborhood as may be determined by the Town Plan Commission or Town Board, such use shall be terminated or the nuisance abated. Where necessary, the Town Plan Commission or Town Board may take appropriate steps to abate such nuisance.

**Section 2:** Section 12 entitled R-1 Residential District, subsection 12.01 entitled Use Regulations, subsection 12.01(1) entitled Permitted Uses, subsection 12.01(1)(B) is hereby repealed and recreated to read as follows:

**12.01(1)**

- (B) The keeping of usual household pets, including the operation of hobby kennels as regulated in Section 9.01(1)(J), but not the operation of hutches.

**Section 3: SEVERABILITY.**

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

**Section 4; EFFECTIVE DATE.**

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

This ordinance passed this 14'th day of December, 1994.

**BY ORDER OF THE TOWN BOARD  
OF THE TOWN OF MUKWONAGO,  
WAUKESHA COUNTY, WISCONSIN**